



UNITED STATES
ENVIRONMENTAL
PROTECTION AGENCY
REGION 8
999 18th STREET - SUITE 300
September 21, 2004

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Honorable Jake Hammon, Mayor
Town of Hudson
POB 56
Hudson, Wyoming 82515-0056

Re: Administrative Order
Docket No. **SDWA-08-2004-0052**

PWS ID # 5600183

Dear Mayor Hammon:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Town of Hudson is a supplier of water as defined by the SDWA and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.81(e), 141.21, 141.21(b)(5), 141.153, 141.201, 141.31(b), and 141.21(g)(2) for not recommending treatment for corrosion control for exceeding the copper action level; failure to monitor for total coliform bacteria; failure to adequately complete consumer confidence reports; failure to notify the public of the violations; and failure to report the violations to EPA.

Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. Small governments are also included under SBREFA, and the enclosed fact sheet discusses resources which may also be available to small governments. Also, there is a compliance assistance center for small governments, the Local Government Environmental Assistance Network (LGEAN). LGEAN can be accessed at www.lgean.com or by calling (877) 865-4326. SBREFA does not eliminate your responsibility to comply with the SDWA.

Among other things, the Order calls for the Town to provide a public notification of violations of the SDWA. For your convenience, we have enclosed some template



forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of the public notice, please do not hesitate to contact Kathelene Brainich of the EPA, whose telephone number is provided below.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Kathelene Brainich at the address on the letterhead and include the mailcode 8ENF-W, or call (800) 227-8917, extension 6481 or (303) 312-6481. If you wish to have in informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please feel free to ask your attorney to call Michelle Jalazo, Enforcement Attorney, at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

Lisa Kahn for/
Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
Public Notice template
SBREFA

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH





UNITED STATES
ENVIRONMENTAL
PROTECTION AGENCY
REGION VIII
999 18th STREET - SUITE 500
September 21, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003 2260 0001 7778 8732
RETURN RECEIPT REQUESTED

Fremont County Commissioners
c/o Doug Thompson, Chair
450 N. 2nd, Room 220
Lander, WY 82520

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Town of Hudson
PWS ID#5600183

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to the Town of Hudson, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The system is in violation of 40 CFR §§ 141.81(e), 141.21, 141.21(b)(5), 141.153, 141.201, 141.31(b), and 141.21(g)(2) for not recommending and installing treatment for corrosion control for exceeding the copper action level; failure to monitor for total coliform bacteria; failure to adequately complete consumer confidence reports; failure to notify the public of the violations; and failure to report the violations to EPA.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,

Lisa Kahn for/
Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)

Town of Hudson)
Hudson, Wyoming)

Respondent)

Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2004-0052**

The following Findings are made and Order is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1414(g) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. The Town of Hudson (Respondent) is a municipality and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Town of Hudson Water System (the System), located in Fremont County, Wyoming, for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R.



§ 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to a May 9, 2003 sanitary survey by an agent for EPA, Respondent operates a system that is supplied by eleven wells and serves approximately 450 persons per day through 210 service connections.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.81(e) requires community public water systems that exceed the lead or copper action level to recommend treatment for corrosion control within six months of exceeding the lead or copper action level, and to install optimum corrosion control treatment within 24 months after EPA designates such treatment.
2. Respondent has not recommend treatment for corrosion control after monitoring results exceeded the copper action level in 1993 and 1994, nor have they installed corrosion control treatment, and, therefore, has been in continuous violation of 40 C.F.R. § 141.81(e) from 1994 to the present.



II.

1. 40 C.F.R. § 141.21 requires community public water systems with a population of 25-1,000 to monitor their water at least once monthly to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor for total coliform bacteria in September 2001, in violation of 40 C.F.R. § 141.21.

III.

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples (four collected) in November 2000 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

IV.

1. 40 C.F.R. § 141.152-155 require community water systems to prepare and deliver an annual Consumer Confidence Report (CCR) to their customers by July 1st each year.
2. 40 C.F.R. § 141.153 requires the CCR to clearly identify any violations and, dependent upon the violation type, to include the potential adverse health



effects and actions taken by the system to address the violations.

3. Respondent failed to identify the September 2001 total coliform failure to monitor violation in its 2001 CCR. In addition, the 2000 CCR states there were no violations and failed to identify the failure to install treatment due to the copper exceedence and the November 2000 failure to take five routine total coliform samples, in violation of 40 C.F.R. §§ 141.152 and 141.153.

V.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation (NPDWR) violations in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I (for 2000 only) through III of this Order, in violation of 40 C.F.R. § 141.201.

VI.

2. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Sections I, IV and V, in violation of 40 C.F.R. § 141.31(b).

VII.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers



the violation.

3. Respondent failed to report to EPA instances of noncompliance detailed in Sections II and III, in violation of 40 C.F.R. § 141.21(g)(2).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT
IS ORDERED:

1. In order to obtain current data on the levels of lead and copper in the water system, within 30 days of the date of this Order and again between January 1 - 15, 2005, Respondent shall comply with the requirements as specified in the Safe Drinking Water Act and 40 C.F.R. Part I (Control of Lead and Copper). Respondent shall:
 - (a) Collect 10 samples that are first-draw, one-liter in volume, and have stood motionless in the plumbing system for at least 6 hours in accordance with 40 C.F.R. § 141.86(b) at sampling sites selected in accordance with 40 C.F.R. § 141.86(a);
 - (b) Have samples analyzed by an EPA-certified laboratory, in accordance with 40 C.F.R. § 141.90;
 - (c) Report the results of the tap water monitoring to EPA within 10 days of receiving the results, including:
 - i. the location of each site and criteria under which the site was selected for the system's sampling pool;
 - ii. certification that each first draw sample collected is one-liter in volume, and to the best of one's knowledge, has stood



motionless in the service line, or in the interior plumbing of a sampling site, for at least 6 hours;

- iii. where residents collected the samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures specified in 40 C.F.R. § 141.86(b)(2);
- iv. the 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period calculated in accordance with 40 C.F.R. § 141.80(c)(3).

2. If the monitoring results collected in either monitoring period required in paragraph 1 of this Order exceed the action level for lead or copper as set forth in 40 C.F.R. § 141.80(c), Respondent shall, within two weeks of exceeding the action level, comply with all the requirements for water quality parameter (WQP) monitoring and reporting as specified in 40 C.F.R. §§ 141.87, 141.89, and 141.90 and for source water monitoring and reporting as specified in 40 C.F.R. §§ 141.88, 141.89, and 141.90. Respondent shall report results to EPA within 10 days of receiving the results. Respondent shall:

- (a) Collect 2 tap samples at 1 site that are representative of water quality throughout the distribution system in accordance with 40 C.F.R. §§ 141.87(a)(1)(i) and 141.87(a)(2)(i). Respondent may collect WQPs at the same locations as those used for coliform



sampling under 40 C.F.R. § 141.21.

- (b) Collect 2 samples for each applicable WQP at each entry point(s) to the distribution system that are representative of water quality throughout the distribution system in accordance with 40 C.F.R. § 141.87(a)(1)(ii) and § 141.87(a)(2)(ii). The applicable WQPs are specified in 40 C.F.R. § 141.87(b) and are:

- i. pH
- ii. alkalinity
- iii. orthophosphate (when an inhibitor containing a phosphate compound is used)
- iv. silica (when an inhibitor containing a silicate compound is used)
- v. calcium
- vi. conductivity, and
- vii. water temperature

- (c) Collect one source water sample from each entry point to the distribution system, in accordance with 40 C.F.R. §§ 141.88(a) and (b).

- (d) Have samples analyzed by an EPA-certified laboratory, in accordance with 40 C.F.R. § 141.89.

3. If the monitoring results collected in either monitoring period required in paragraph 1 of this Order exceed the action level for lead or copper as set forth



in 40 C.F.R. § 141.80(c), Respondent shall, within six weeks of exceeding the action level, provide optimal corrosion control and source water treatment recommendations to EPA. Within four months of obtaining EPA's approval of the treatment recommendations, Respondent shall have optimal corrosion control and, if applicable, source water treatment installed. Within one week of project completion, Respondent shall notify EPA in writing that the project is complete.

4. After installation of optimal corrosion control treatment as outlined in paragraph 3 above, Respondent shall collect 10 tap samples during each two consecutive 6-month monitoring periods (January-June and July-December) immediately following treatment installation, in accordance with 40 C.F.R. Part I and as outlined in paragraph 1(a) through (c) above. Respondent shall report the results of the tap water monitoring to EPA for lead and copper within 10 days following the end of each monitoring period, in accordance with 40 C.F.R. § 141.90(a). The System must also continue WQP monitoring during these periods as follows: a) two samples must be collected at one site in the distribution system during each 6-month monitoring period AND 2) one sample must be collected



at each entry point to the distribution system every two weeks. Respondent shall submit monitoring results to EPA within 10 days of receiving the results.

5. If the System meets the lead and copper action levels during both monitoring periods in paragraph 4 above, the frequency and number of tap samples will be reduced and the System may discontinue WQP monitoring. If the System exceeds the lead or copper action level during either monitoring period following treatment installation, EPA will, based upon the WQP results collected during the twelve month period in paragraph 4 above, establish WQP values the System must meet in all subsequent monitoring periods to remain in compliance.
6. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
7. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days



following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

8. Upon the effective date of this Order, Respondent shall prepare its annual CCR in compliance with 40 C.F.R. §§ 141.152-141.155, including identifying all violations incurred for the reporting year, as required by 40 C.F.R. § 141.153.
9. No later than 30 days from the effective date of this Order, Respondent shall provide public notice of the violations specified under the Findings of Violation in this Order to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; AND (2) any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice described above, such as publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others, posting in public places served by the system or on the Internet, or delivery to community organizations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the public notice requirements at 40 C.F.R.



§ 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

10. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
11. Except where a different reporting period is specified in paragraph 10 above, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
12. Reporting requirements specified in this Order shall be provided by certified mail to:

Kathelene Brainich
U. S. EPA Region VIII (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.



2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
 3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
 4. The effective date of this Order shall be the date of issuance of this Order.
- Issued this 21st day of September, 2004.

David Rochlin for M. Risner

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Lisa Kahn for/

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 21, 2004.

